

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0220P**

**Use Tax**

**Calendar Years 1997, 1998, and 1999**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a manufacturer of industrial filtration and engine products. In Indiana, it consists of a manufacturing plant, a warehouse, and two sales offices. At audit, it was determined that the taxpayer failed to pay tax on fixed assets located in Indiana and general purchases. The assessment amounted to more than eighty percent (80%) of use tax due for each year of the audit.

Taxpayer failed to remit use tax on clearly taxable fixed assets and general expense purchases although it had a use tax accrual system in place.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that it failed to remit use tax on fixed assets and general purchases.

Taxpayer states it inadvertently misclassified one of its facilities as a manufacturing facility, an inadvertent error, not an overt act of negligence. It has implemented a program to pick up items

of the nature included in the audit report. A penalty waiver is requested.

Taxpayer failed to assess use tax on taxable fixed assets and general purchases primarily for its warehouse location. The assets and general purchases for which no use tax was accrued or paid amounted to over eighty percent (80%) of the use tax due for each year of the audit.

Taxpayer's reasoning is not reasonable cause to allow a waiver of the penalty.

**FINDING**

Taxpayer's protest is denied.